

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CLAUDE BROWN,)
) Case No. 2:16-cv-01340-TSZ
Plaintiff,)
) **JOINT PRETRIAL ORDER**
vs.) **STATEMENT**
)
KING COUNTY,) TRIAL DATE: June 14, 2021
Defendant.)
_____)

Pursuant to Local Rule 16(h), the parties submit the following Joint Pretrial Statement.

I. JURISDICTION

The parties agree that jurisdiction is vested in this court by virtue 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1367 (supplemental jurisdiction over state law claims). Therefore, subject matter jurisdiction is proper under federal law.

II. CLAIMS AND DEFENSES

1 **Plaintiff Claude Brown will pursue the following claims at trial:**

2 1. Defendant King County discriminated against plaintiff Claude Brown on the
3 basis of his race when denying him promotion to Rail Supervisor in Training positions
4 ~~between 2011~~ in October 2012 and/or May 2014.

5 2. Defendant King County discriminated against plaintiff Claude Brown on the
6 basis of his race when removing him from his special duty assignment to Acting Technical
7 Trainer in July 2013.

8 3. Defendant King County retaliated against plaintiff Claude Brown because he
9 complained about racial discrimination internally and with the King County Office of Civil
10 Rights when denying him promotion to Rail Supervisor in Training positions between 2012
11 and 2014.

12 4. Defendant King County retaliated against plaintiff Claude Brown because he
13 complained about racial discrimination internally and with the King County Office of Civil
14 Rights when removing him from his special duty assignment to Acting Technical Trainer
15 in 2013.

16 5. In discriminating against plaintiff, defendant violated the Washington Law
17 Against Discrimination, R.C.W. 49.60 *et. seq.* and 42 U.S.C. § 1981.

18 6. In retaliating against plaintiff, defendant violated the Washington Law
19 Against Discrimination, R.C.W. 49.60 *et. seq.* and 42 U.S.C. § 1981.¹
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21

22 ¹ Defendant objects to plaintiff's vague and overly broad statement of the claims at issue in this
23 case after its remand. As defendant will discuss further in its trial brief, and as this Court has already
held, the statute of limitations cuts off claims from before **July 25, 2012** under 42 U.S.C. § 1981

1 **Defendant King County will pursue the following affirmative defenses at trial:**

2 1. ~~Plaintiff has failed to state a claim upon which relief may be granted.~~

3 2. Plaintiff's claim is barred by the applicable statute of limitations.

4 3. Plaintiff has failed to mitigate his damages, if any exist.

5 4. ~~Defendant's employment practices are now, and have been during the~~
6 ~~period of time referred to in the complaint, conducted in all respects in accordance with~~
7 ~~local, state and federal laws, regulations and constitutions.~~

8 5. ~~Defendant acted in good faith and on the reasonable belief that it was acting~~
9 ~~in accordance with the law.~~

10
11 **III. ADMITTED FACTS**

12 1. Plaintiff Claude Brown is African-American.

13 2. Plaintiff was hired by the King County Department of Transportation in
14 November 1997 as a part-time employee.

15 3. King County operates the King County Department of Transportation, which
16 supplies employees to operate Link Light Rail trains throughout the county.

17 4. In April of 2000, plaintiff became a full-time Transit Operator.

18 5. Plaintiff began working for the King County Department of Transportation
19 Division Rail Section in February of 2009.

20
21
22 _____
23 and from before **May 26, 2013** for claims under the Washington Law Against Discrimination,
R.C.W. 49.60.

1 6. In October 2012, plaintiff applied for a Rail Supervisor in Training position
2 with the job number 2012-02634. Plaintiff was not selected to test or interview for the
3 position.

4 7. Three candidates were selected for the October 2012 RSIT position, they
5 were John Kwesele, Santiago Maciel, and Jeff Wachtel.

6 8. On March 24, 2013, plaintiff filed complaint number 13-03-04 with the King
7 County Office of Civil Rights (“KCOCR”) alleging racial discrimination by defendant.

8 9. Plaintiff’s March 24, 2013 KCOCR complaint constituted protected activity.

9 10. On May 15, 2013, King County posted a Job Bulletin for a Rail Technical
10 Trainer position. No one applied for the position.
11

12 11. On June 21, 2013 Amanda Nightingale, Assistant Superintendent of
13 Organizational Development and Training, sought letters of interest from current Rail Line
14 Instructors interested in an acting detail to cover the duties of the Rail Technical Trainer
15 position.

16 12. On Friday, June 28, 2013, Tom Jones notified Mr. Brown that he would be
17 placed in the Acting Technical Trainer (“ATT”) detail beginning July 2, 2013.

18 13. Plaintiff began his Acting Technical Trainer detail on July 2, 2013.

19 14. On July 10, 2013, Amanda Nightingale notified plaintiff that his Acting
20 Technical Trainer detail would end on Friday, July 12, 2012.
21

22 15. On Monday, July 15, 2013, Ms. Nightingale placed Kevin Gumke into the
23 Acting Technical Trainer detail.

1 16. On April 18, 2014, plaintiff applied for an RSIT position with the job number
2 2014IMM03875.

3 17. On May 19, 2014, Ivette Martinez-Morales notified plaintiff that his
4 application materials for job number 2014IMM03875 “were incomplete and/or did not
5 include all required information.”

6 **IV. ISSUES OF LAW**

7 **Plaintiff proposes the following issues of law to be determined by the Court:**

8 1. Whether evidence demonstrating a pattern of racial discrimination and
9 retaliation by the testimony of other employees is admissible to show intent to
10 discriminate by defendants.

11 2. Whether plaintiff is entitled to an award of costs and attorneys’ fees, and if
12 so, what amount?

13 **Defendant proposes the following issues of law to be determined by the Court:**

1. Whether plaintiff may introduce evidence regarding positions he applied for and discipline he alleges he suffered from before the statute of limitations cut offs and, if so, whether plaintiff is entitled to a limiting instruction to prevent juror confusion over the true claims at issue in this lawsuit.

2. Whether plaintiff may introduce evidence of alleged retaliation and discrimination he either did not plead, or that was specifically not remanded by the appellate court.

3. Whether plaintiff may introduce evidence of protected activity, namely his January 2014 KCOCR complaint and April 11, 2016 amended KCOCR complaint, which he did not plead.

V. EXPERT WITNESSES

Neither party disclosed experts pursuant to FRCP 26.

VI. OTHER WITNESSES²

The names and addresses of witnesses, other than experts, to be used by each party at the time of trial and the general nature of the testimony of each are:

A. Plaintiff's Lay Witnesses

² Defendant objects to Plaintiff's late addition of more previously undisclosed witnesses and requests that the witnesses be barred from testifying at trial. Plaintiff first provided his Pre-Trial statement to defendant on April 16, 2021 with 38 witnesses. On May 16, 2021 Plaintiff provided an updated version of the Pre-Trial statement with updated expected testimony for all witnesses. Plaintiff withdrew four witnesses (Michael Avery, deceased; Tom Jones, deceased; Vendetta Brown, undisclosed; Alicia Brown, undisclosed) and belatedly added an additional six new witnesses (Maria Stafford, Robert Fisher, Virginia Frazier, Balwinder Singh, Steve Chichester, Neal Safrin). Plaintiff failed to list four of these individuals as a witness or previously disclose them in discovery (Stafford, Fisher, Frazier, and Singh). Plaintiff failed to list Mr. Safrin as a witness and his disclosure of him as someone who might have facts related to Plaintiff's complaint was insufficient notice that he would call him as a witness at trial.

Name	Expected Testimony
Claude Brown King County Rail Operator c/o Civil Rights Justice Center, PLLC 2150 North 107 th St. Ste. 520 Seattle, WA 98133 (206)557-7719 Will Call	Plaintiff will testify about his work history and experience and the racial discrimination and retaliation he experienced and witnessed at the hands of defendant. He will testify about the emotional harm and mental anguish he has suffered as a result of defendant's actions.
Frank King King County Rail Operator PO Box 78519 Seattle, WA 98178 (206) 228-1462 Will Call	Mr. King is a retired employee of King County. He will testify about his experiences of racism and retaliation at King County Rail and about instances of racial discrimination against plaintiff and other people of color that he witnessed. He will further testify about his experiences of filing complaints of racial discrimination and of retaliation and management's reaction to them.
Bruce Laing (206) 949-7869 Will Call	Mr. Laing is a retired employee of King County. He may testify to the discrimination plaintiff has faced, including being passed over for promotion in favor of candidates with less experience and relevant work history. He may testify about the formal and informal practices within King County Department of Transportation (KCDOT) regarding promotions and racial remarks he heard.
Karen Rispoli 4045 Delridge Way, SW #300 Seattle, WA 98106 206-301-2288 Will Call	Ms. Rispoli may testify about the racial discrimination plaintiff faced in the workplace, including being passed over for promotion in favor of candidates with less experience and relevant work history. She may testify about the formal and informal practices within King County Department of Transportation (KCDOT) regarding promotions and in general how it discriminates. She will also testify about the racial slurs she witnessed and management's reaction to them.
Chris McClure 253-314-1926	Mr. McClure may testify to being the subject of racially-motivated 'pranks' while at King County Department of Transportation and can

Name	Expected Testimony
Will Call	testify to being informed by the Rail Superintendent that plaintiff's RSIT application was deliberately rejected. He may testify about the formal and informal practices within King County Department of Transportation (KCDOT) regarding promotions.
Daryoush Hakki King County Supervisor Will Call	Mr. Hakki may testify to assisting plaintiff in his complaints of discrimination by accompanying plaintiff to KCOCR meetings. He may testify to his conversations with plaintiff about the discrimination he was facing.
Kavin James King County Employee Will Call	Mr. James may testify to discrimination plaintiff suffered in the workplace as well as his own experiences filing a grievance against King County through KCOCR and KCDOT's response to his grievance. He may testify regarding the RSIT recruitment process and his complaints to management through his union regarding that process. He may testify to his own experiences of racial discrimination including instances of being rejected for promotion in favor of less-qualified white candidates. He way also testify about how the criteria for the RSIT position kept changed making it difficult to qualify.
Bigyon Pratap King County Employee Will Call	Mr. Pratap will testify to being a supervisor in training who was suddenly released from his position when plaintiff's KCOCR complaint was sent to management in its entirety. He may testify regarding the RSIT recruitment process and formal and informal practices regarding promotions within KCDOT. He will also testify about how he was promised the next available RSIT position.
John Kwesele Former King County Employee (206) 940-5062 genai32@hotmail.com	Mr. Kwesele will testify to his own experiences of racial discrimination while at King County Department of Transportation Rail, his experience of complaining about

Name	Expected Testimony
Will Call	discrimination to management, and KCDOT's response to his complaints. He has personal knowledge of what plaintiff did and was asked to do during the short time he was an Acting Technical Trainer.
Shereese Braun 206-499-7833 35400 18 th Ave SW Federal Way, WA 98023 Will Call	Ms. Braun personally knows plaintiff and may testify as to his damages.
Maria Stafford (206) 947-7809 7560 120 th St. Seattle, WA 98178 Will Call	Ms. Brown personally knows plaintiff and may testify as to his damages
Virginia Frazier (253) 255-0540 32607 46 th Ct. SW Tacoma WA 98405 Will Call	Ms. Brown personally knows plaintiff and may testify as to his damages.
Jefferson Eussell 206-854-3715 Will Call	Mr. Eussell is a coworker of plaintiff's and may testify about the disparate treatment Rail employees receive from supervisors/management based on his race. He may testify to general practices and procedures within KCDOT, including interactions between supervisors and the staff they manage.
James Valaile (206) 551-3220 3407 Airport Way South Seattle, WA 98134 Will Call	Mr. Valaile was a student plaintiff trained at Rail and can testify to plaintiff's abilities and qualifications. He may testify to general workplace practices and procedures within KCDOT.
Salah Abdi Plaintiff will supplement with contact information when and if possible	Mr. Abdi is a coworker of plaintiff's and may testify about the disparate treatment Rail employees receive from supervisors/management based on his race.

Name	Expected Testimony
Will Call	
Abdi Ibrahim Rail Supervisor King County Metro (206) 832-7593 May Call	Mr. Ibrahim has faced intimidation and unfairness in promotions within King County Metro and can testify the environment of racial discrimination. He can testify to formal and informal practices and procedures regarding promotion and to interactions with supervisory staff. He can also testify to the recruitment process for rail supervisors, to the job description of and necessary qualifications for being a rail supervisor, and to general practices within KCDOT regarding promotions and interactions with supervisors. He can testify to career advancement within KCDOT and the benefits he has gained through becoming a supervisor.
Shannon Shay Plaintiff will supplement with contact information when and if possible Will Call	Ms. Shay has directly supervised plaintiff and can testify to his abilities and qualifications.
Sandra Dodge Plaintiff will supplement with contact information when and if possible Will Call	Ms. Dodge is familiar with the recruitment process from her time as a Chief at King County Rail. She can testify to formal and informal policies and practices regarding promotions, to interactions between supervisors and their staff, and to the opportunities for career advancement within KCDOT.
Erin Clarke Retired Rail Supervisor 206-841-4700 moon_glow_merchants@hotmail.com Will Call	Ms. Clarke is a former Rail supervisor and a person of color; she can speak to the environment of racial discrimination at King County Metro, to the recruitment process for rail supervisors, to the job description of and necessary qualifications for being a rail supervisor, and to general practices within KCDOT regarding promotions and interactions with supervisors. She can also testify to career advancement within KCDOT

Name	Expected Testimony
	and the benefits she gained through becoming a supervisor.
Kevin Goodman King County Rail Operator 206-353-4327 Will Call	Mr. Goodman may testify about benefitting from less discipline in the workplace because of his race, and about conversations with rail manager Michael Avery about discrimination based on race. He may further testify to formal and informal practices and procedures within KCDOT regarding promotions and interactions with supervisors.
John Dibble jdibble@kingcounty.gov 206-889-9896 Will Call	Mr. Dibble is a coworker of plaintiff's and may testify about the disparate treatment plaintiff receives from supervisors/management based on his race. He may further testify to formal and informal practices and procedures within KCDOT regarding promotions and interactions with supervisors.
Balwinder Singh Former King County employee (206) 245-3199 bsingh@comcast.net balwinder5@yahoo.com Will Call	Mr. Singh is a former coworker of plaintiff's and may testify to the discrimination he has faced as a person of color working for KCDOT. He may testify to the environment of racism within the department, to interactions between supervisors and operators, and to formal and informal practices and procedures within KCDOT.
Robert Fisher 13707 SE 275 th Pl. Kent, WA 98042 (206) 290-1560 Will Call	Mr. Fisher is a life-long friend of plaintiff's that may testify to the impact of defendant's actions on plaintiff's mental health, emotional well-being, and social relationships.
Steve Chichester Shop Steward (Amalgamated Transit Union) <i>Will supplement with contact information when possible</i> Will Call	Mr. Chichester is a Union Shop Steward with the Amalgamated Transit Union (ATU), to which plaintiff belongs. He may testify to grievance hearings he attended with plaintiff, to plaintiff's complaints of racial discrimination, the RSIT recruitment process and his removal from his ATT assignment. He may also testify regarding other complaints of racial discrimination ATU has been involved

Name	Expected Testimony
	<p>in with or on behalf of its members, and to interactions between plaintiff and other transit operators and supervisory staff.</p> <p>He will also testify as to the various position plaintiff applied for and what the current salaries are for those positions as well as other positions in management.</p>
<p>Neal Safrin Amalgamated Transit Union Vice President 2815 Second Avenue, Suite 230 Seattle, WA 98121 (206) 448-8588 nsafrinvpl@atu587.com</p> <p>May Call</p>	<p>Mr. Safrin may testify to his knowledge of and involvement in plaintiff's complaints and grievances to KCDOT management through the ATU, including plaintiff's grievances regarding his removal from his ATT assignment, the RSIT recruitment process, and racial discrimination. He may also testify regarding other complaints of racial discrimination ATU has been involved with or on behalf of its members, and to interactions between plaintiff and other transit operators and supervisory staff.</p>
<p>Kevin Gumke King County Employee</p> <p>Will Call</p>	<p>Mr. Gumke may testify about the Acting Technical Trainer position he was appointed to on July 10, 2013, the benefits of that and other special duty assignments to his career with KCDOT, and career advancement within KCDOT including practices and procedures regarding promotion. He may also testify as to his interactions with Amanda Nightingale and Tom Jones before, during and after his ATT assignment.</p>
<p>Terry Rhoads Rail Chief of King County Metro King County Prosecuting Attorney 500 Fourth Avenue, Ste 900 Seattle, WA 98104 206-296-8820</p> <p>Will Call</p>	<p>Mr. Rhoads may testify about the Acting Technical Trainer position plaintiff was removed from on July 10, 2013. He may also testify about the RSIT recruitment process, which in 2012 he directly participated in as a "subject matter expert." He may further testify to career advancement opportunities within KCDOT, practices and policies around promotions, and interactions between supervisory staff and transit operators.</p>
<p>Ivette Martinez-Morales King County Human Resources</p>	<p>Ms. Martinez-Morales may testify about the RSIT selection processes that took place in</p>

Name	Expected Testimony
Will Call	2013 and spring 2014. She may testify about why plaintiff's application in 2014 was deemed incomplete. She may also testify about her involvement in plaintiff's KCOCR complaints as well as her knowledge of plaintiff and the 2013 Acting Technical Trainer position.
Silvette Lee Human Resources Analyst Will Call	Ms. Lee may testify about the RSIT selection processes between 2011 and 2014. She may also testify about the RSIT application filtering process, which she was in charge of during October 2012.
Hollie Alejandria King County Operations Administrative Specialist Will Call	Ms. Alejandria may testify about plaintiff's complaints of racial discrimination and retaliation and to KCDOT's response to plaintiff's complaints, including to the grievance hearings she was present for. She may testify to plaintiff's assignment to the Acting Temporary Trainer position, to the general relationship between supervisors and operators, to standard administrative practices at KCDOT, and to environment at KCDOT with regard to racism and complaints of discrimination.
Jim Meith King County Human Resources Will Call	Mr. Meith may testify about complaints of discrimination and retaliation made by plaintiff, about King County's responses to these complaints, and about the role of human resources personnel including Ivette Martinez-Morales in formally responding to plaintiff's KCOCR complaints.
David Vestal King County Rail Operations Chief Will Call	Mr. Vestal may testify about plaintiff's complaints of racial discrimination and retaliation. He may also testify about the 2014 RSIT recruitment process, during which plaintiff's application was deemed incomplete. He may testify to the general environment at KCDOT with regard to race, to interactions between supervisory staff and operators, and to career advancement within KCDOT.

Name	Expected Testimony
<p>Amanda Nightingale King County Rail Operations Chief</p> <p>Will Call</p>	<p>Ms. Nightingale may testify about the Acting Technical Trainer position plaintiff was removed from in July 2013. She may also testify about the RSIT selection process, including the October 2012 selection process in which she participated as “subject matter expert” and her role in scoring RSIT applications. She may testify to her interactions with plaintiff and other operators, including Kevin Gumke, her decision to replace plaintiff with Kevin Gumke for the purposes of his ATT assignment, and to career advancement within KCDOT and the benefits to holding a supervisory position.</p>
<p>Rachel Price King County Streetcar Supervisor</p> <p>Will Call</p>	<p>Ms. Price may testify about the disparity in treatment, including regarding discipline and promotion, that King County employees experience based on race. She may testify to general career advancement and promotional practices within KCDOT, the requirements of a supervisory position, and the benefits to becoming a supervisor.</p>
<p>Jeff Wachtel Operations Chief LCC Light Rail—King County Metro jeff.wachtel@soundtransit.org (206) 852-3023</p> <p>Will Call</p>	<p>Mr. Wachtel can speak to special assignments and promotions within Rail and supervisory practices. He may further testify to career advancement opportunities within KCDOT, practices and policies around promotions, and interactions between supervisory staff and transit operators.</p>
<p>Al Azen King County Rail Operations Chief C/O County Prosecutor’s Office Summit Law Group PLLC 315 5th Ave S. Ste. 1000 Seattle WA 98104 206-676-7000</p> <p>Will Call</p>	<p>Mr. Azen may testify to the promotional process within King County Metro, supervisory practices and culture, and racial discrimination. He may further testify to career advancement opportunities within KCDOT and the benefits of holding a supervisory position.</p>
<p>Keith Sherry Retired Rail Communications Superintendent</p>	<p>Mr. Sherry may testify about management and supervisory systems, practices, and culture at King County Metro, including</p>

Name	Expected Testimony
C/O County Prosecutor's Office Summit Law Group PLLC 315 5th Ave S. Ste. 1000 Seattle WA 98104 206 676 7000 Will Call	promotions and the culture of racial discrimination
Brian Matthews Sound Transit Employee 401 South Jackson Street Seattle, WA 98104 (206) 398-5000 Will Call	Mr. Matthews is a coworker of plaintiff at King County Rail who is familiar with his work abilities and qualifications. Mr. Matthews is also familiar with the RSIT recruitment process from his own application to that position. He may testify regarding the RSIT recruitment process, the requirements of the RSIT position, and the benefits associated with being promoted to RSIT or a supervisory position.
Daniel Matthews Supervisor at King County Rail Will Call	Mr. Matthews is a coworker of plaintiff at King County Rail who is familiar with his work abilities and qualifications. He is further familiar with the recruitment process for supervisory positions and may testify to formal and informal practices and procedures within KCDOT regarding promotions, as well as interactions between operators and supervisors. He may testify to career advancement within KCDOT and the benefits of attaining a supervisory position.

Plaintiff reserves the right to call any witness listed by defendant and any necessary rebuttal witnesses.

B. Defendant's Lay Witnesses

Witness	Nature of Testimony	Status
Terry Rhoads Transit Chief – Rail Operations	He will be called to testify about his knowledge of facts and actions related to plaintiff's complaints, division practices and policies.	Will call

Witness	Nature of Testimony	Status
c/o undersigned counsel		
David Vestal Rail Operations Chief c/o undersigned counsel	He will be called to testify as to his knowledge of the facts and actions related to plaintiff's complaints, division practices and policies.	Will call
Amanda Nightingale Transit Section Manager c/o undersigned counsel	She will be called to testify about her knowledge of facts and actions related to plaintiffs' complaints, division practices and policies.	Will call
Ivette Martinez-Morales Employee and Labor Relations Representative c/o undersigned counsel	She will be called to testify about her knowledge of facts and actions related to plaintiff's complaints, division practices and policies.	Will call
Silvette Lee Employee and Labor Relations Representative c/o undersigned counsel	She will be called to testify about her knowledge of facts and actions related to plaintiff's complaints, division practices and policies.	Will call
Hollie Alejandra Transit Chief - Rail Operations c/o undersigned counsel	She will be called to testify about her knowledge of facts and actions related to plaintiff's complaints, division practices and policies.	Will call
Kelli Williams (in place of John MacDonald, deceased) Former Director King County Office of Civil Rights and Open Government c/o undersigned counsel	She will be called to testify about her knowledge of the King County Office of Civil Rights and Open Government ("KCOCR") procedures and practices. Ms. Williams issued both the KCOCR's 2014 Notice of No Reasonable Cause Finding and the 2015 Notice of Reasonable Cause Findings.	Will call
Claude Brown Plaintiff c/o plaintiff's counsel	Claude Brown is the plaintiff in this matter and may be called to testify as to his knowledge of the facts and circumstances leading up to and surrounding the incidents referred to in his complaint and the liability and damages in this case.	Will call
Adrienne Leslie Department Director - DHR	Adrienne Leslie is the Transit Human Resources Manager with the King County Metro Transit Department. She may be called to testify about	May Call

Witness	Nature of Testimony	Status
c/o undersigned counsel	her knowledge of facts and actions related to plaintiff's complaints, division practices and policies, and pertinent rules, regulations and laws.	
Jamie Stoops Employee and Labor Relations Representative c/o undersigned Counsel	Jamie Stoops is an Employee & Labor Relations Representative with the King County Metro Transit Department. She may be called to testify regarding the policies and procedures the Department uses, her knowledge of the facts and circumstances leading up to and surrounding the incidents referred to in plaintiff's complaint, and the liability and damages in this case.	May Call
Kevin Gumke Transit Supt. – Rail Training c/o undersigned counsel	He may be called to testify about his knowledge of allegations raised in this case.	May Call
James Moreau c/o undersigned counsel	James Moreau was an Employee and Labor Relations Representative with the King County Metro Transit Department. He may be called to testify regarding the policies and procedures the Department uses, and his knowledge of the facts and circumstances leading up to and surrounding the incidents referred to in plaintiff's complaint.	May Call

King County reserves the right to call any witness listed by plaintiff and any necessary rebuttal witnesses.

VII. EXHIBITS

Plaintiff reserves the right to offer any exhibits listed by the defendants if it becomes necessary during the course of the trial.

A. Plaintiff Brown's Exhibits:

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
1	Photo of Light Rail Operator View				X	
2	2017 Tunnel Testing Video				X	
3	11/29/2010 Letter from King to Avery with exhibits (7 pages)	KC-CB-006763 – KC-CB-006769			X	
4	2/11/2011 Letter from King to Avery (2 pages)	KC-CB-006806 – KC-C-006807			X	
5	12/22/11 Letter of Protest for SiT Test Scheduling to O'Rourke, Avery and Human Resources signed by Brown (1 page)	KC-CB-012483			X	
6	2/13/2012 Rail Supervisor Job Posting (2 pages)	KC-CB-002670 – KC-CB-002671			X	
7	2/13/12 Rail Supervisor Job Posting (4 pages)	KC-CB-006900 – KC-CB-006903		X		
8	4/16-4/24/12 Email chain between Brown, O'Rourke, and Sepolene: complaint over SIT exam (3 pages)	CB00706 – CB00708			X	
9	Brown RSIT Application Spring 2012 (6 pages)	KC-CB-002473 – KC-CB-002478	X			

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
10	Kevin Gumke RSIT Application Spring 2012 (5 pages)	KC-CB-004333 – KC-CB-004337		X		
11	6/27/12 Emails between Rhoads and Soucek regarding test and interview scores for RSIT candidates (3 pages)	KC-CB-007015 – KC-CB-007017		X		
12	8/23/12 August 2012 RSIT Job Requisition Form completed by Martinez (2 pages)	KC-CB-002668 – KC-CB-002669	X			
13	4/19/12 Rail Supervisor Second Job Posting April-May 2012	KC-CB-002672 – KC-CB-002674			X	
14	10/12/12 Rail Supervisor Job Posting October 2012 (7 pages)	KC-CB-002675 – KC-CB-002681			X	
15	October 2012 RSIT Posting (7 pages)	KC-CB-002979 – KC-CB-002985	X			
16	Scoring Criteria for October 2012 RSIT Applications (1 page)	KC-CB-003101	X			
17	Fall 2012 Brown RSIT Application	KC-CB-002479 – KC-CB-002485	X			
18	October 2012 Applicant Score Results for RSIT Applications (1 page)	KC-CB-003102	X			

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
19	Log of Actions re Brown's October 2012 RSIT Application (3 pages)	KC-CB-002704 – KC-CB-002706	X			
20	11/16/12 Brown Letter re RSIT Position Denial	KC-CB-002612	X			
21	11/16-12/21/12 Kevin James 2012 union grievance file for grievance over RSIT hiring process (7 pages)	KC-CB-003076 – KC-CB-003082		X		
22	11/27/12 Email from Nightingale re RSIT Phone Interview Results	KC-CB-006233	X			
23	1/10/13 Summary of Grievance Hearing re Brown's 12/24/12 Grievance (3 pages)	KC-CB-000130 – KC-CB-000132		X		
24	3/7/13 Email between Rhoads, Nightingale, Jones, Lee re: filtering applied to RSIT applications, with attachment (3 pages)	KC-CB-002499 – KC-CB-002501	X			
25	3/7/13 Summary of Second Step Grievance Hearing re 12/24/12 Grievance (3 pages)	KC-CB-000139 – KC-CB--000141		X		
26	3/22/13 Email from Leslie to Martinez-Morales re Brown assigning her to work on response to Brown KCOCR Complaint (2 pages)	KC-CB-020793 – KC-CB-020794		X		
27	4/2/13 Email chain between Meith, Jones,	KC-CB-020817		X		

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
	Avery, Martinez-Martin re: meeting about Brown's OCR complaint (1 page)					
28	5/4/13 Brown Email to Pratap, James re potential retaliation based on complaints of discrimination (1 page)	KC-CB-003296		X		
29	5/28/13 Email from Meith to Jones, Martinez-Morales with amended Brown KCOCR complaint (1 page)	KC-CB-020833		X		
30	6/12/13 Email from Martinez-Morales to Meith with lists of recruitments Brown applied for (1 page)	KC-CB-020844		X		
31	6/21/13 Email from Nightingale seeking letters of interest in ATT position (1 page)	KC-CB-000436	X			
32	6/26/13 Emails between Macdonald and Meith identifying handwritten notes on scoring sheet from October 2012 RSIT applications (1 page)	KC-CB-012574			X	
33	6/27/13 Commendation from Nightingale to Gumke re: special duty assignment (1 page)	KC-CB-007582		X		
34	6/28/13 Email from Brown to Nightingale	KC-CB-000440	X			

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
	expressing interest in ATT position (1 page)					
35	6/28/2013 Letter from Jones to Brown offering Brown ATT position (1 page)	KC-CB-010954	X			
36	6/28/13 Email from Nightingale rejecting Gumke from ATT Position (1 page)	KC-CB-000444	X			
37	7/3/13 Light Rail Operators Bulletin announcing Brown's ATT position (1 page)	KC-CB-022994	X			
38	7/8/13 Nightingale Email re Length of ATT Assignment (1 page)	KC-CB-000467	X			
39	7/8/13 Email chain between Nightingale, Rhoads, Alejandria re: Duration of Brown's assignment to ATT Position (1 page)	KC-CB-005156	X			
40	7/11/13 Email from Nightingale to Jones, Rhoads re: Brown's "progress" as an ATT and decision to split ATT Position (1 page)	KC-CB-000446	X			
41	7/11/13 Email from Nightingale to Gumke re Beginning ATT Position (1 page)	KC-CB-000448	X			
42	7/17-7/18/13 Email chain between Brown and Sufland re union grievance over removal	KC-CB-003345 – KC-CB-003348			X	

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
	from ATT position and replacement by Gumke (4 pages)					
43	7/17/13 Email chain between Brown, Clarke, Sufland re: Brown's removal from ATT position (3 pages)	KC-CB-003342 – KC-CB-003344			X	
44	7/29/13 Memo to Brown re: Rail Technical Trainer assignment and benefits (1 page)	CB00221	X			
45	8/7-8/8/13 Email chain between Meith, Macdonald, Martinez-Morales re files needed for OCR interview preparations (2 pages)	KC-CB-020862 – KC-CB-020863		X		
46	8/22/13 Memo from Jones to Rhoads re: Meeting w/ Brown over ATT assignment (1 page)	KC-CB-003406	X			
47	8/8/13 Email from Brown to Jones re clarification on Rail Technical Trainer Position (2 pages)	KC-CB-002842 – KC-CB-002843	X			
48	5/21/14 Email from Brown to Martinez-Morales asking if he will be allowed to test for RSIT position (1 page)	KC-CB-003134	X			
49	3/6/14 Emails between Macdonald, various HR personnel regarding Investigation into	KC-CB-003131 – KC-CB-003133		X		

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
	Brown's 2013 KCOCR Complaint sent to Martinez-Morales (3 pages)					
50	Brown 2014 RSIT Application (6 pages)	CB00177 – CB00182			X	
51	3/21/14 Letter from King to Gannon re: disparate treatment at King County Jail (3 pages)	KC-CB-018931 – KC-CB-018933		X		
52	5/19/14 Email to Brown from Martinez-Morales rejecting Brown's RSIT application (2 pages)	KC-CB-002847 – KC-CB-002848	X			
53	5/22-7/8/14 Emails between Brown and Martinez-Morales regarding RSIT application follow up questions (5 pages)	KC-CB-020887 – KC-CB-020891	X			
54	5/22-7/8/13 Follow up Emails between Brown, Martinez-Morales, and Vestel re: Brown RSIT application rejected (6 pages)	CB00859 – CB00864		X		
55	10/3/14 Email from Brown to various requesting 3rd Step Hearing for union grievance re: RSIT application rejection (2 pages)	KC-CB-019752 – KC-CB-019753		X		
56	12/4/15 KCOCR Notice of Reasonable Cause Finding to Brown with	CB00103 – CB00112		X		

	Description	Bates Number	Admissibility Stipulated	Authenticity Stipulated/Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
	attached Findings and Determination (10 pages)					
57	Amalgamated Transit Union Agreement (2013-2016) Section R19: Rail Supervisors (8 pages)	KC-CB-025320 – KC-CB-025327	X			
58	7/1/13 Email from Leslie to Bell re SD Approval Needed ASAP – Claude Brown (1 page)	KC-CB-005155	X			
59	7/19/13 Emails btwn Brown and James re ATT removal and Gumke Hiring (6 pages)	CB00774 – CB-00779			X	
60	1/4/13 KCOCR Complaint re ATT position (2 pages)	KC-CB-013466 – KC-CB-013467		X		
61	1/31/14 King County response Letter from Moreau to Macdonald re Claude Brown v King County Dept. of Transportation Complaint (13 pages)	KC-CB-000470 – KC-CB-000482		X		
62	3/6/15 KCOCR Charge of Discrimination (2 pages)	KC-CB-013482 – KC-CB-013483		X		
63	4/10/14 RSIT job posting (10 pages)	KC-CB-002780 – KC-CB-002789		X		

B. Defendant's list of proposed trial exhibits:

Ex. No.	Exhibit Description	Date	Bates Range	Stipulated Authentic and	Authenticity Stipulated, Admissibilit	Authenticity and Admissibility	Admitted
100	Collective Bargaining Agreement ATU 587	2010 – 2013	KC-CB-007237 – KC-CB-007419	X			
101	Collective Bargaining Agreement ATU 587 – Exhibit D Terms and Conditions of Employment	2010 - 2013	KC-CB-007420 – KC-CB-007578	X			
102	Collective Bargaining Agreement ATU 587	2013 – 2016	KC-CB-001983 – KC-CB-002158	X			
103	Collective Bargaining Agreement ATU 587 – Exhibit D Terms and Conditions of Employment	2013 – 2016	KC-CB-025206 – KC-CB-025356	X			
104	Link Light Rail Rulebook 2013	2013-03-18	KC-CB-000314 – KC-CB-000368	X			
105	Email Re RSIT Role Play & Interview Schedule	2012-06-27	KC-CB-022862 – KC-CB-022863	X			
106	2012-02634 Rail Supervisor Job Posting	2012-10-12	KC-CB-002816 – KC-CB-002823	X			
107	2012-02634 Rail Supervisor – Claude Brown Application	2012-10-21	KC-CB-002534 KC-CB-002539	X			
108	Application Scoring Criteria for October 2012 Posting	2012	KC-CB-007054 – KC-CB-007055		X		

Ex. No.	Exhibit Description	Date	Bates Range	Stipulated Authentic and	Authenticity Stipulated, Admissibilit	Authenticity and Admissibility	Admitted
109	2012-02634 NeoGov Application Steps	2012	KC-CB-002796	X			
110	2012-02634 Supplemental Questions by Job Report	2013-06-12	KC-CB-006851	X			
111	2012-02634 SME Applicant List Step 1		KC-CB-009405	X			
112	2012-02634 SME Notice – Claude Brown	2012-11-16	KC-CB-002729	X			
113	Email Re Applications Waiting for SME Review (Jones)	2012-10-29	KC-CB-006890		X		
114	Email Re Applications Waiting for SME Review (Nightingale)	2012-10-29	KC-CB-007048		X		
115	Supervisor Recap		KC-CB-002502		X		
116	Kwesele Application	2012-10-15	KC-CB-004862 – KC-CB-004868	X			
117	Maciel Application	2012-10-23	KC-CB-004913 – KC-CB-004918	X			
118	Wachtel Application	2012-10-22	KC-CB-005101 – KC-CB-005106	X			
119	Rail Technical Trainer Job Posting No. 2013IMM03108	2013-05-15	KC-CB-000430 – KC-CB-000434	X			
120	Email Re: Gumke Interest in Acting Technical Trainer	2013-06-25	KC-CB-000437	X			
121	Email from Nightingale Re:	2013-06-28	KC-CB-010952	X			

Ex. No.	Exhibit Description	Date	Bates Range	Stipulated Authentic and	Authenticity Stipulated, Admissibilit	Authenticity and Admissibility	Admitted
	Acting Technical Trainer Position						
122	Streetcar Operations and Maintenance Supervisor Job Posting No. 2014IMM03734	2014-02-10	KC-CB-009093 – KC-CB-009100	X			
123	Rail Supervisor, Rail Supervisor-in-Training Job Posting No. 2014IMM03875	2014-04-10	KC-CB-002780 – KC-CB-002789	X			
124	Streetcar Operations and Maintenance Supervisor 2014IMM03734 Claude Brown Application		KC-CB-002732 – KC-CB-002737	X			
125	Rail Supervisor, Rail Supervisor-in-Training 2014IMM03875 Claude Brown Application		KC-CB-007952 – KC-CB-008956	X			
126	2014 Successful and/or Eligible Applicants	Various	KC-CB-007997 – KC-CB-008001; KC-CB-008007 – KC-CB-008011; KC-CB-008012 – KC-CB-008016; KC-CB-008021 – KC-CB-008025;	X			

Ex. No.	Exhibit Description	Date	Bates Range	Stipulated Authentic and	Authenticity Stipulated, Admissibilit	Authenticity and Admissibility	Admitted
			KC-CB-008074 – KC-CB-008078; KC-CB-008079 – KC-CB-008083; KC-CB-008084 – KC-CB-008089				
127	Sample of 2014 Rejected Application		KC-CB-007957 - KC-CB-07960		X		
128	Email Re: RSIT 11:03 AM	2014-06-02	KC-CB-012705 – KC-CB-012706		X		
129	Email Re: RSIT 9:14 PM	2014-07-04	KC-CB-012715 – KC-CB-012717		X		
130	Email Re: RSIT 1:24 PM	2014-07-08	KC-CB-024318 – KC-CB-024321		X		
131	Email Re: RSIT 2:29 PM	2014-07-08	KC-CB-003145 – KC-CB-003149		X		
132	Email Re: RSIT 11:29 PM	2014-07-08	KC-CB-024322 – KC-CB-024327		X		
133	Email Re: Rail Supervisor, Rail Supervisor-in-Training	2017-07-11	KC-CB-003150 – KC-CB-003152		X		
134	Email Re: RSIT	2014-10-03	KC-CB-024492 – KC-CB-024494		X		

VIII. DEPOSITION TRANSCRIPTS TO BE OFFERED AT TRIAL

A. Transcripts offered by plaintiff:

Plaintiff will offer no deposition excerpts.

B. Transcripts offered by defendant:

Exhibit No.	Deposition of	Date	Exhibit/Excerpt Description
135	Claude Brown	9-19-2017	Deposition Excerpt: 18:14 - 19:09
136	Claude Brown	9-19-2017	Deposition Excerpt: 60:06 - 60:16
137	Claude Brown	9-19-2017	Deposition Excerpt: 72:15 - 73:03
138	Claude Brown	9-19-2017	Deposition Excerpt: 127:10 – 129:22
139	Claude Brown	9-19-2017	Deposition Excerpt: 131:07 - 134:01
140	Claude Brown	9-19-2017	Deposition Excerpt: 185:17 - 188:03
141	Claude Brown	9-19-2017	Deposition Excerpt: 188:21 - 188:25
142	Claude Brown	9-19-2017	Deposition Excerpt: 191:21 - 193:02
143	Claude Brown	9-19-2017	Deposition Excerpt: 200:08 - 200:24
144	Claude Brown	9-19-2017	Deposition Excerpt: 201:15 - 202:09
145	Claude Brown	9-19-2017	Deposition Excerpt: 206:06 - 207:08
146	Claude Brown	9-19-2017	Deposition Excerpt: 209:12 - 212:23
147	Claude Brown	9-19-2017	Deposition Excerpt: 215:16 - 217:02
148	Claude Brown	9-19-2017	Deposition Excerpt: 223:07 - 223:12
149	Claude Brown	9-19-2017	Deposition Excerpt: 221:23 - 223:12
150	Claude Brown	9-19-2017	Deposition Excerpt: 233:01 - 233:13
151	Claude Brown	9-19-2017	Deposition Excerpt: 241:13 - 243:21
152	Claude Brown	9-19-2017	Deposition Excerpt: 255:16 - 258:04
153	Claude Brown	9-19-2017	Deposition Excerpt: 269:11 - 270:02
154	Claude Brown	9-20-2017	Deposition Excerpt: 351:14 - 353:07
155	Claude Brown	9-20-2017	Deposition Excerpt: 418:22 - 419:04
156	Claude Brown	9-20-2017	Deposition Excerpt: 454:03 - 455:25
157	Claude Brown	9-20-2017	Deposition Excerpt: 541:19 – 542:15
158	Claude Brown	9-20-2017	Deposition Excerpt: 578:02 - 579:12
159	Michael Avery	9-28-2017	Deposition Excerpt: 04:17 – 06:06
160	Michael Avery	9-28-2017	Deposition Excerpt: 06:12 – 07:06
161	Michael Avery	9-28-2017	Deposition Excerpt: 08:07 – 09:03
162	Michael Avery	9-28-2017	Deposition Excerpt: 13:09 – 14:21
163	Michael Avery	9-28-2017	Deposition Excerpt: 15:11 – 17:04
164	Michael Avery	9-28-2017	Deposition Excerpt: 17:11 – 17:21
165	Michael Avery	9-28-2017	Deposition Excerpt: 20:03 – 20:24

Exhibit No.	Deposition of	Date	Exhibit/Excerpt Description
166	Michael Avery	9-28-2017	Deposition Excerpt: 34:15 – 34:20
167	Michael Avery	9-28-2017	Deposition Excerpt: 35:03 – 35:20
168	Michael Avery	9-28-2017	Deposition Excerpt: 35:25 – 36:06
169	Michael Avery	9-28-2017	Deposition Excerpt: 38:11 – 38:13
170	Michael Avery	9-28-2017	Deposition Excerpt: 38:20 – 39:13
171	Michael Avery	9-28-2017	Deposition Excerpt: 40:25 – 41:16
172	Michael Avery	9-28-2017	Deposition Excerpt: 52:05 – 52:25
173	Michael Avery	9-28-2017	Deposition Excerpt: 57:15 – 57:19
174	Michael Avery	9-28-2017	Deposition Excerpt: 68:19 – 69:06
175	Michael Avery	9-28-2017	Deposition Excerpt: 79:06 – 81:06

Defendant has moved in *limine* to exclude evidence of the April 2017 incident in which Plaintiff mistakenly believed that he was at the terminal Angle Lake Station, when in fact he was at the SeaTac Station. If Defendant's motion is denied, Defendant will offer the following deposition excerpts related to that incident: 60:17-61:2, 63:1-71:9, 77:15-83:6, 83:17-95:14, 97:2-100:12.

Defendant objects to plaintiff's reservation of the right to use any exhibits that have not been designated or agreed to by the defendant. Defendant objects to Plaintiff's use of any deposition excerpts that he failed to designate pursuant to LR 32. Defendant also reserves the right to use any depositions taken by either side during the pendency of this case. Defendant reserves the right to offer any exhibits listed by plaintiff.

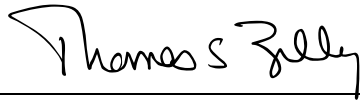
ACTION BY THE COURT

(a) This case is scheduled for trial before a jury on June 14, 2021 at 1:00 p.m.

(b) Trial briefs shall be submitted to the court on or before May 28, 2021.

1 (c) Objections to jury instructions shall be submitted to the court on or before June
2 7, 2021. Suggested questions of either party to be asked of the jury by the court on voir
3 dire shall be submitted to the court on or before May 28, 2021.

4 DATED this 7th day of June, 2021.

5
6 
7 Thomas S. Zilly
8 United States District Judge

9 Presented by:

10 CIVIL RIGHTS JUSTICE CENTER, PLLC

11
12 s/Darryl Parker

13 **Darryl Parker**, WSBA #30770
14 Attorney for Plaintiff
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